

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

---

ABRAHAM BARKHORDAR, SARAH  
ZELASKY, and ELLA WECHSLER-  
MATTHAEI, individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

HARVARD UNIVERSITY,

Defendant.

---

Civil Action No. 1:20-cv-10968-IT

**DEFENDANT'S MOTION TO DISMISS  
THE FIRST AMENDED CONSOLIDATED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and Rule 7.1(b) of the Local Rules of the United States District Court for the District of Massachusetts, Defendant Harvard University,<sup>1</sup> by and through its undersigned attorneys, hereby moves this Court for an Order dismissing Plaintiffs' First Amended Consolidated Complaint in its entirety, with prejudice. The grounds for this motion are set forth in the accompanying Memorandum of Law.

### **REQUEST FOR ORAL ARGUMENT**

Pursuant to Rule 7.1(d) of the Local Rules of the United States District Court for the District of Massachusetts, Defendant hereby requests oral argument in connection with this Motion on the ground that such argument may assist the Court in connection with the issues presented herein.

### **RULE 7.1(A)(2) CERTIFICATION**

Pursuant to Local Rule 7.1(a)(2), undersigned counsel for Defendant certifies that Defendant's counsel has conferred in good faith with counsel for Plaintiffs in an effort to resolve or narrow the issues presented in this Motion.

WHEREFORE, Defendant respectfully requests that this Court issue an Order dismissing the First Amended Consolidated Complaint with prejudice.

---

<sup>1</sup> The President and Fellows of Harvard College is the legal entity comprising Harvard University, and is the proper party to this litigation.

Dated: October 7, 2020

Respectfully submitted,

/s/ Anton Metlitsky

---

Anton Metlitsky (*pro hac vice*)  
ametlitsky@omm.com  
Jennifer Sokoler (*pro hac vice*)  
jsokoler@omm.com  
O'MELVENY & MYERS LLP  
7 Times Square  
New York, NY 10036  
Telephone: (212) 326-2000  
Facsimile: (212) 326-2061

Matthew Powers (*pro hac vice*)  
mpowers@omm.com  
O'MELVENY & MYERS LLP  
Two Embarcadero Center  
San Francisco, CA 94111  
Telephone: (415) 984-8700  
Facsimile: (415) 984-8701

Victoria L. Steinberg, BBO #666482  
vsteinberg@toddweld.com  
Rebecca M. O'Brien, BBO #693592  
robrien@toddweld.com  
TODD & WELD LLP  
One Federal Street  
Boston, MA 02110  
Telephone: (617) 624-4714  
Facsimile: (617) 624-4814

*Attorneys for Defendant  
President and Fellows of Harvard College*

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on October 7, 2020.

/s/ Anton Metlitsky

Anton Metlitsky (*pro hac vice*)